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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,227	07/31/2003	Joseph W. Works	123.01	1728

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ERICKSON & KLEYPAS, L.L.C.  
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KANSAS CITY, MO 64112

EXAMINER

ROYAL, PAUL

ART UNIT PAPER NUMBER

3611

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/631,227	<b>Applicant(s)</b> WORKS, JOSEPH W.	
	<b>Examiner</b> Paul Royal	<b>Art Unit</b> 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-12, 14-18, and 20 is/are rejected.
- 7) ☒ Claim(s) 9, 13, 19 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>01/09/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 9 January 2004 has been considered by the examiner.

### ***Claim Objections***

2. Claim 21 is objected to because of the following informalities: page 27, paragraph (c) line 2, "claim" should be "clamp". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-8 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention.

Applicant's admission, in the IDS/PTO 1449 submitted 9 January 2004, that Turnover Ball Gooseneck Hitch models 1062R and 1302 R invention has been on sale prior to 31 July 2002 presents a public use/sale bar to patentability of the invention.

The Turnover Ball Gooseneck Hitch model 1062R disclosure teaches a hitch structure for connection between a pair of elongated, laterally spaced frame members of a vehicle chassis, each of the frame members having a preformed aperture (see Examiner's annotated Figure 2) at a selected location thereon, the structure comprising:

a hitch base adapted to receive a removable and invertible hitch member (10) to enable hitching a trailer to- the vehicle chassis, the hitch base including:

an elongated hitch base member (3) positioned transverse to the chassis, having a front side and a rear side, and having the hitch member (10) engaged therewith;

an elongated front cross member (1) connected to the front side of the hitch base member and having opposite ends; and

an elongated rear cross member (2) connected to the rear side of the hitch base member and having opposite ends;

a pair of side plates (4,6) connected to respective sets of opposite ends of the front and rear cross members, each side plate including:

a front side plate member (5) and a rear side plate member (7) connected to the hitch base (3), the front and rear side plates connected to one another; and

a pair of clamp members (clamp members, see Examiner annotated Figure 1) associated with each of the side plates, each pair of clamp members including a front clamp member and a rear clamp member, the front clamp member being engaged with an associated front side plate member and the rear clamp member being engaged with an associated rear side plate member, each pair of a front and a rear clamp member clampingly engaging a respective one of the side plates with an associated one of the frame members at such a location as to position the pin member in the associated preformed aperture,

and the clamp members associated with each side plate-en gaging the associated frame member in spaced relation along the, associated frame member to thereby secure the hitch base in transverse relation between the frame members; and

each of the clamp members being a U-bolt sized to fit around an associated one of the frame members.

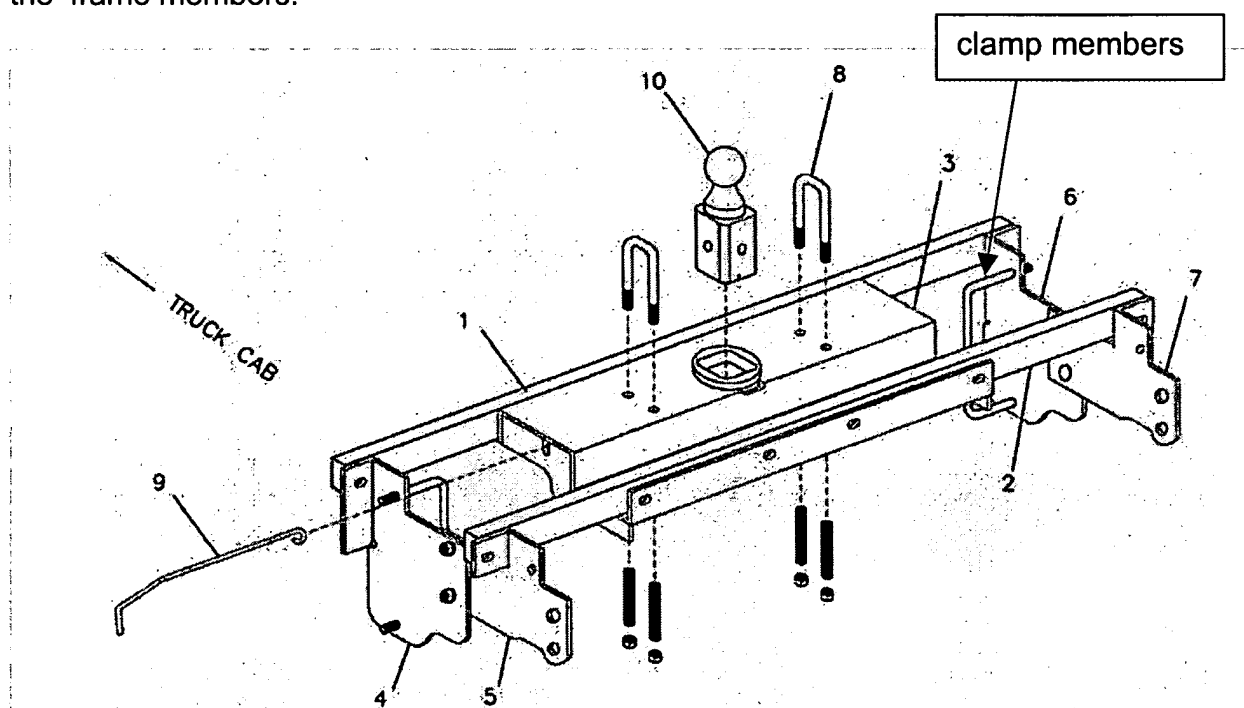


Figure 1

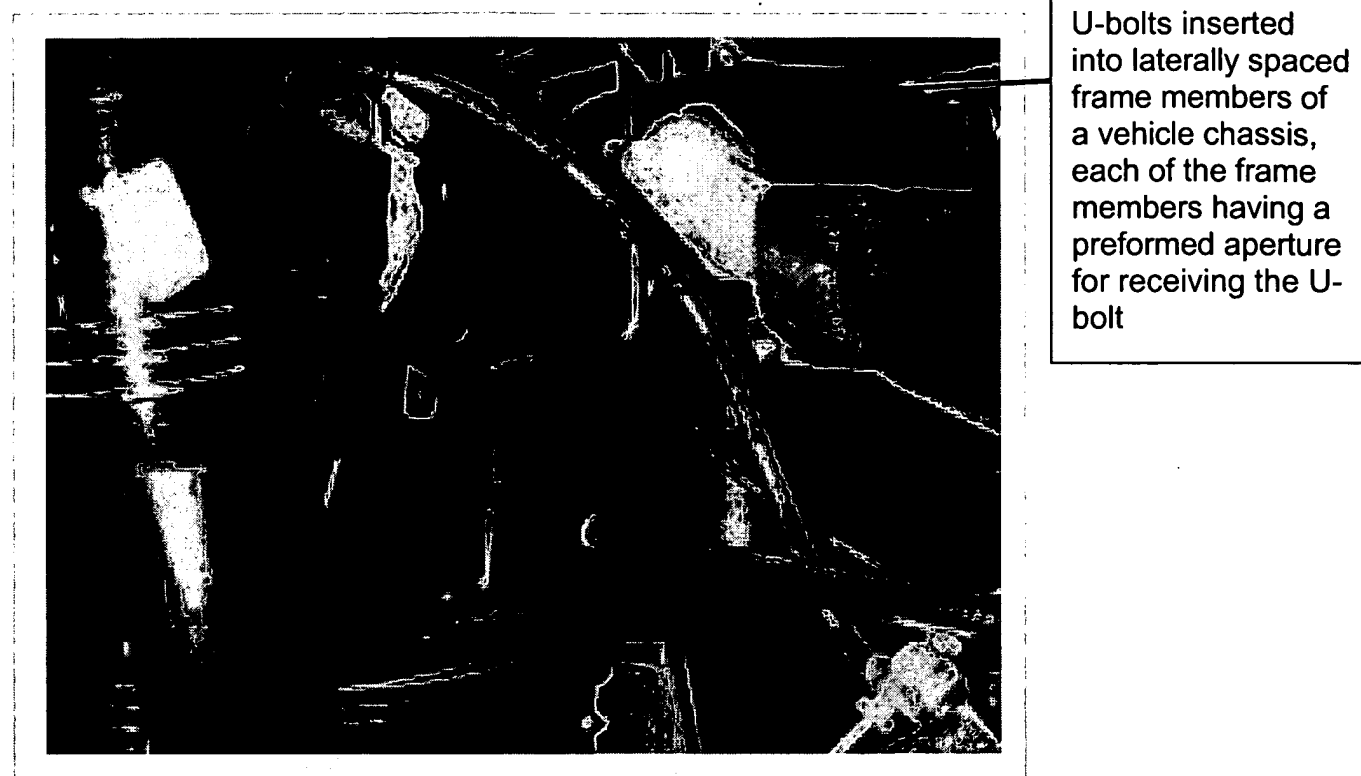


Figure 2

4. Note, the claim limitation of the frame members being "hydroformed frame member" is given no patentable weight because it relates to the method of manufacturing the frame members and the frame members above are structurally equivalent to the hydroformed frame members recited by applicant.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 10-12, 14-18, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Turnover Ball Gooseneck Hitch model 1062R disclosure in view of Putnam (US 6,409,202).

The Turnover Ball Gooseneck Hitch model 1062R disclosure teaches the claimed limitations except a pin member arranged to engage the frame member.

Putnam teaches an Underbed Goosneck hitch assembly including at least one pin member (42) connected to the hitch base (14) and sized, positioned, and oriented to enable reception of the pin member in the preformed aperture of the first frame member (104) to thereby secure the hitch base in transverse relation between the frame members, to provide a hitch assembly in which the hitch ball is movable.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gooseneck hitch of the 1063R disclosure to include at least one pin member connected to the hitch base and sized, positioned, and oriented to enable reception of the pin member in the preformed aperture of the first frame member to thereby secure the hitch base in transverse relation between the frame members, as taught by Putnam '202, to provide a hitch assembly in which the hitch ball is movable.

Note, the addition of a second pin member is understood to be merely a duplication of the existing pin and therefore is considered obvious to one of ordinary skill in the art.

***Allowable Subject Matter***

6. Claim 21 is allowed.

The following is an examiner's statement of reasons for allowance:

7. For claim 21, the prior art does not teach a hitch structure as recited including a hitch base, a pair of elongated side plates, a pair of U-bolt clamp members, and further includes a pin member and pin bracket member arranged to engage the frame member.

8. Claims 9, 13, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

For claims 9, the prior art does not show a hitch structure as recited in the independent claim and as applicable to the dependent claims, wherein the side plates include a pin member receivable into the preformed aperture of the frame and the side plate being clampingly engaged with and pin bracket member arranged to engage the frame member to position the pin member in the preformed aperture of the frame member.

For claims 13 and 19, the prior art does not teach a hitch structure as recited in the independent claim and as applicable to the dependent claims, including a hitch base, a pair U-bolt clamp members connected to the hitch base clampingly engaging it with the frame member, and further includes a pin member and pin bracket member arranged to engage the frame member.



Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Frampton et al. teaches a sliding fifth wheel. Putnam '869 teaches a fifth wheel gooseneck. Ni et al. teaches a hydroform method. King '761 teaches a mounting apparatus. King '045 teaches a fifth wheel/gooseneck hitch. Tambornino teaches a fail safe hitch.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Royal whose telephone number is 703-308-8570. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



P. Royal  
10/19/04

Paul Royal  
Examiner  
Art Unit 3611



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